

SENATE BILL No. 531

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-5.1-5; IC 31-9-2-123; IC 31-32; IC 31-33; IC 31-34; IC 31-37; IC 31-40-1-2.

Synopsis: Changes in juvenile law. Makes numerous changes to the child protection system, including the following: (1) Provides that a child alleged to be a child in need of services (CHINS) may not be removed from the child's home except under certain specific circumstances. (2) Provides that other family members must first be considered for placement if a child is removed from the child's home. (3) Provides that a child alleged to be a CHINS or delinquent child may not be removed from the child's home if the only evidence in the case is an anonymous report. (4) Requires the division of family and children to destroy within six months all records of an unsubstantiated child abuse or neglect report. (5) Provides that a proceeding to
(Continued next page)

Effective: July 1, 1999.

Clark

January 19, 1999, read first time and referred to Committee on Judiciary.



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terminate a parent-child relationship must be open to the public upon request of the child's parent, guardian, or custodian. (6) Provides that the rules of evidence apply to detention, dispositional, and placement review hearings. (7) Requires the court to advise a child's parent, guardian, or custodian that alternative reports may be prepared by them for consideration by the court in CHINS and delinquency proceedings. (8) Provides that a child's family is not required to reimburse the state or other provider for expenses relating to supervised visitation. (9) Requires certain juvenile court determinations to be made by a preponderance of the evidence. (10) Repeals a rebuttable presumption, created upon the introduction of certain evidence, that a child is a child in need of services. Makes certain other changes.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 531

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-5.1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. As used in this
3 chapter, "juvenile history data" means information collected by
4 criminal or juvenile justice agencies or individuals about a child who
5 is alleged to have committed a reportable act and consists of the
6 following:
- 7 (1) Descriptions and notations of events leading to the taking of
 - 8 the child into custody by a juvenile justice agency for a reportable
 - 9 act allegedly committed by the child.
 - 10 (2) A petition alleging that the child is a delinquent child.
 - 11 (3) Dispositional decrees concerning the child that are entered
 - 12 under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).
 - 13 (4) The findings of a court determined after a hearing is held
 - 14 under ~~IC 31-37-20-2 or IC 31-37-20-3~~ **IC 31-34-21-7** (or
 - 15 ~~IC 31-6-4-19(h) or IC 31-6-4-19(i)~~ **IC 31-6-4-19(c)** before ~~their~~



1 **its** repeal) concerning the child.

2 (5) Information:

3 (A) regarding a child who has been adjudicated a delinquent
4 child for committing an act that would be an offense described
5 in IC 5-2-12-4(1) if committed by an adult; and

6 (B) that is obtained through sex offender registration under
7 IC 5-2-12.

8 SECTION 2. IC 31-9-2-123 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 123. "Substantiated",
10 for purposes of IC 31-33 **and** IC 31-34-8-4, ~~and IC 31-37-9-5~~, means
11 a determination regarding the status of a report made under IC 31-33
12 whenever facts obtained during an investigation of the report provide
13 credible evidence that child abuse or neglect has occurred. **To**
14 **substantiate a report of child abuse or neglect, the allegations must**
15 **be proven by a preponderance of the evidence.**

16 SECTION 3. IC 31-32-2-3 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) This section
18 applies to the following proceedings:

19 (1) Proceedings to determine whether a child is a child in need of
20 services.

21 (2) Proceedings to determine whether the parent, guardian, or
22 custodian of a child should participate in a program of care,
23 treatment, or rehabilitation for the child.

24 (3) Proceedings to determine whether the parent or guardian of
25 the estate of a child should be held financially responsible for any
26 services provided to the parent or guardian or the child of the
27 parent or guardian.

28 (4) Proceedings to terminate the parent-child relationship.

29 (b) A parent, guardian, or custodian is entitled:

30 (1) to cross-examine witnesses;

31 (2) to obtain witnesses or tangible evidence by compulsory
32 process; and

33 (3) to introduce evidence on behalf of the parent, guardian, or
34 custodian.

35 (c) **The rules of evidence apply to:**

36 (1) **a factfinding hearing held under IC 31-34-11 and**
37 **IC 31-37-13; and**

38 (2) **a hearing regarding a petition to terminate the**
39 **parent-child relationship under IC 31-35-3.**

40 SECTION 4. IC 31-32-2-3.5 IS ADDED TO THE INDIANA CODE
41 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
42 1, 1999]: **Sec. 3.5. At the request of a parent, guardian, or**



1 **custodian, a proceeding to terminate the parent-child relationship**
 2 **must be open to the public. However, the court may, in any**
 3 **individual case, take any constitutionally protected steps the court**
 4 **considers appropriate to protect the child's identity.**

5 SECTION 5. IC 31-32-6-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. The juvenile court
 7 shall determine whether the public should be excluded from a
 8 proceeding other than a juvenile proceeding described in section 3 **or**
 9 **3.1** of this chapter.

10 SECTION 6. IC 31-32-6-3.1 IS ADDED TO THE INDIANA CODE
 11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 1999]: **Sec. 3.1. At the request of a parent, guardian, or**
 13 **custodian, a proceeding to terminate the parent-child relationship**
 14 **must be open to the public. However, the court may, in any**
 15 **individual case, take any constitutionally protected steps the court**
 16 **considers appropriate to protect the child's identity.**

17 SECTION 7. IC 31-33-7.5 IS ADDED TO THE INDIANA CODE
 18 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 1999]:

20 **Chapter 7.5. Removal of a Child From the Home**

21 **Sec. 1. A child may not be removed from the child's family home**
 22 **when the child is alleged to be:**

- 23 (1) **a child in need of services; or**
 24 (2) **a delinquent child;**

25 **if the only evidence that exists to support the allegation after an**
 26 **initial investigation is a report that is made anonymously.**

27 SECTION 8. IC 31-33-8-3 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Except as
 29 provided in subsection ~~(b)~~; **(c)**, the local child protection service shall:

- 30 (1) cause color photographs to be taken of the areas of trauma
 31 visible on a child who is subject to a report; and
 32 (2) if medically indicated, cause a radiological examination of the
 33 child to be performed.

34 **(b) A photograph made to record the condition of a child under**
 35 **this section must be signed, dated, and numbered by the person**
 36 **who photographed the child. Each photograph must be stored with**
 37 **the child's file that is created and maintained by the county office.**

38 ~~(b)~~ **(c)** If the law enforcement agency participates in the
 39 investigation, the law enforcement agency shall cause the color
 40 photographs to be taken as provided by this section.

41 ~~(c)~~ **(d)** The division of family and children shall reimburse the
 42 expenses of the photographs and x-rays.



(e) **A photograph made as a result of an unsubstantiated report must be destroyed immediately after the report is determined by the county office to be unsubstantiated.**

SECTION 9. IC 31-33-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) The local child protection service's investigation, to the extent that is reasonably possible, must include the following:

(1) The nature, extent, and cause of the known or suspected child abuse or neglect.

(2) The identity of the person allegedly responsible for the child abuse or neglect.

(3) The names and conditions of other children in the home.

However, if the only evidence supporting an allegation of child abuse or neglect is a report made anonymously, the investigation is limited to the facts involving only the child or children alleged to be the subject of the child abuse or neglect.

(4) An evaluation of the parent, guardian, custodian, or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

(b) The investigation may include the following:

(1) A visit to the child's home.

(2) An interview with the subject child.

(3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

(1) admission to the home, the school, or any other place that the child may be; or

(2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

SECTION 10. IC 31-33-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. Whenever:

(1) a court with criminal jurisdiction dismisses a case or enters a not guilty verdict in a case arising out of child abuse or neglect; or

(2) a court with jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not

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1 occurred;
 2 the court shall forward information regarding the disposition of the
 3 case under this chapter to the registry not more than five (5) working
 4 days after the court acts as described by subdivisions (1) through (2):
 5 **dismissal or determination is entered into the record. All**
 6 **information concerning the child abuse or neglect report must be**
 7 **immediately removed from the registry.**

8 SECTION 11. IC 31-33-10-2.2 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 1999]: **Sec. 2.2. A photograph made to record**
 11 **the condition of a child under this chapter must be signed, dated,**
 12 **and numbered by the person who photographed the child.**

13 SECTION 12. IC 31-33-10-2.3 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 1999]: **Sec. 2.3. Each photograph made**
 16 **under this chapter must be stored with the child's file that is**
 17 **created and maintained by the county office.**

18 SECTION 13. IC 31-33-10-4 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 1999]: **Sec. 4. A photograph made as a result**
 21 **of an unsubstantiated report must be destroyed immediately after**
 22 **the report is determined by the county office to be unsubstantiated.**

23 SECTION 14. IC 31-33-17-7 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The division of
 25 family and children shall administer the registry and each local child
 26 protection service shall administer the automated child protection
 27 system under IC 31-33-20 in a manner that enables the division of
 28 family and children or each local child protection service to do the
 29 following:

- 30 (1) Immediately identify and locate prior **substantiated** reports of
- 31 child abuse or neglect through the use of the division of family
- 32 and children's computerized tracking system and the local child
- 33 protection service's automated risk assessment system.
- 34 (2) Track steps in the investigative process to ensure compliance
- 35 with all requirements for a report of child abuse and neglect.
- 36 (3) Maintain and produce aggregate statistical reports monitoring
- 37 patterns of child abuse and neglect that the division of family and
- 38 children shall make available to the public upon request.
- 39 (4) Serve as a resource for the evaluation, management, and
- 40 planning of preventative and remedial services to children who
- 41 have been subject to child abuse or neglect.

42 SECTION 15. IC 31-33-18-4 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Whenever a child abuse or neglect investigation is conducted under this article, the local child protection service shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect investigation; and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

(c) A person about whom a report has been made has the right to provide written evidence and documentation to be kept in the child's file that is maintained by the county office for as long as the file remains in existence.

SECTION 16. IC 31-33-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Except as provided in sections 6 and 7 of this chapter, ~~the division of family and children~~ **a hearing officer** shall conduct an administrative hearing under IC 4-21.5-3 upon a request made under IC 31-33-17-8.

SECTION 17. IC 31-33-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. At the administrative hearing, the classifying agency must prove by ~~some credible~~ **a preponderance of the** evidence that the alleged perpetrator is responsible for the child's abuse or neglect.

SECTION 18. IC 31-33-20-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 6. (a) The division shall destroy all records of an unsubstantiated child abuse or neglect report within six (6) months after the division or a county office determines that the report is unsubstantiated, unless the person who is the subject of a report requests in writing to the investigating caseworker that the records not be destroyed.**

(b) If a request is made under subsection (a), the records shall be retained in the division's files. However, the division is not required to maintain unsubstantiated child abuse or neglect reports for more than five (5) years after the date that the report



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1 **is determined to be unsubstantiated.**

2 SECTION 19. IC 31-34-4-2 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) If a child alleged
4 to be a child in need of services is taken into custody under an order of
5 the court under this chapter, the court shall **first** consider placing the
6 child with a suitable and willing blood or adoptive relative caretaker,
7 including a grandparent, an aunt, an uncle, or an adult sibling, before
8 considering any other out-of-home placement.

9 (b) Before placing a child in need of services with a blood relative
10 or an adoptive relative caretaker, the court may order the division of
11 family and children to:

12 (1) complete a home study of the relative's home; and

13 (2) provide the court with a placement recommendation.

14 SECTION 20. IC 31-34-5-2 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) If a child has
16 been removed from the child's parent, guardian, or custodian under
17 IC 31-34-2-3 or IC 31-34-2-4, then, in accordance with federal law, at
18 the detention hearing the court shall make written findings and
19 conclusions that state the following:

20 (1) Whether removal of the child authorized by IC 31-34-2-3 or
21 IC 31-34-2-4 was necessary to protect the child.

22 (2) A description of the family services available before removal
23 of the child.

24 (3) Efforts made to provide family services before removal of the
25 child.

26 (4) Why the efforts made to provide family services did not
27 prevent removal of the child.

28 (5) Whether the efforts made to prevent removal of the child were
29 reasonable.

30 (b) **The court's findings under this section must be made by a**
31 **preponderance of the evidence.**

32 SECTION 21. IC 31-34-5-3 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The juvenile court
34 shall release the child to the child's parent, guardian, or custodian.
35 However, the court may order the child detained if the court makes
36 written findings of fact upon the record **of probable cause to believe**
37 **and finds by a preponderance of the evidence** that the child is a child
38 in need of services and that:

39 (1) detention is necessary to protect the child;

40 (2) the child is unlikely to appear before the juvenile court for
41 subsequent proceedings;

42 (3) the child has a reasonable basis for requesting that the child

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not be released;

(4) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child; or

(5) consideration for the safety of the child precludes the use of family services to prevent removal of the child.

SECTION 22. IC 31-34-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A child detained under section 3 or 4 of this chapter or the child's parent, guardian, or custodian may petition the juvenile court for additional detention hearings.

(b) **At the request of a child's parent, guardian, or custodian, an additional detention hearing, subject to the rules of evidence, shall be held within thirty (30) days after the request or the child shall be released.**

(c) **When a judge releases a child under this section, the judge shall make written findings that explain the reasons for the release.**

SECTION 23. IC 31-34-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The juvenile court shall inform the parent or guardian of the estate that if the child is adjudicated a child in need of services:

(1) the parent, guardian, or custodian of the child may be required to participate in a program of care, treatment, or rehabilitation for the child;

(2) the parent or guardian may be held financially responsible for services provided for the parent, guardian, or child; and

(3) the parent, guardian, or custodian of the child may controvert the following:

(A) Allegations made at the child's dispositional or other hearing concerning the parent's, guardian's, or custodian's participation.

(B) Allegations concerning the parent's or guardian's financial responsibility for services that would be provided.

(b) **The juvenile court shall consider a request to use a particular service provider that is made by a child's parent, guardian, or custodian who is required to participate in family services under subsection (a)(1).**

SECTION 24. IC 31-34-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. Except as provided in IC 31-35-2-4.5(d), a finding **by a juvenile court** in a proceeding to terminate parental rights must be based upon clear and convincing evidence.



SECTION 25. IC 31-34-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A finding **by a juvenile court in a proceeding that is not covered by described in** section 1 or 2 of this chapter must be based upon a preponderance of the evidence.

SECTION 26. IC 31-34-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. A child's case plan must be set out in a form prescribed by the division of family and children that meets the specifications set by 45 CFR 1356.21. The case plan must include a description and discussion of the following:

- (1) A permanent plan for the child and an estimated date for achieving the goal of the plan.
- (2) The appropriate placement for the child based on the child's special needs and best interests.
- (3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is recommended. If an out-of-home placement is appropriate, the county department shall **first** consider whether a child in need of services should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.
- (4) Family services recommended for the child, parent, guardian, or custodian.
- (5) Efforts already made to provide family services to the child, parent, guardian, or custodian.
- (6) Efforts that will be made to provide family services that are ordered by the court.

SECTION 27. IC 31-34-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Upon finding that a child is a child in need of services, the juvenile court shall order a probation officer or a caseworker to prepare a predispositional report that contains a:

- (1) statement of the needs of the child for care, treatment, rehabilitation, or placement; and
- (2) recommendation for the care, treatment, rehabilitation, or placement of the child.

(b) Any of the following may prepare an alternative report for consideration by the court:

- (1) The child.
- (2) The child's:
 - (A) parent;



- (B) guardian;
- (C) guardian ad litem;
- (D) court appointed special advocate; or
- (E) custodian.

(c) The court shall advise the child's parent, guardian, or custodian:

- (1) that alternative reports may be prepared; and**
- (2) of the right to controvert a predispositional report as set forth in IC 31-34-19-2.**

SECTION 28. IC 31-34-18.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 18.6. Additional Provisions Governing Out-of-Home Placements

Sec. 1. A child alleged to be a child in need of services may not be removed from the child's family home under this article unless:

- (1) the child's physical health is endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian;**
- (2) the child has been or is in danger of being a victim of an offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2, IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or**
- (3) the child is in danger of serious bodily harm as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, shelter, or medical care, and a court order has first been obtained.**

Sec. 2. A parent or other family member is not required to reimburse the state or a provider of family services for costs related to supervised visitation.

Sec. 3. The child's caseworker or probation officer shall maintain a written record of a child's removal from a juvenile facility or other out-of-home placement by a person who is not related to the child and shall:

- (1) file a copy of the report with the court maintaining jurisdiction over the child on a monthly basis; and**
- (2) make a copy of the record available, upon request, to the child's:**
 - (A) parent, guardian, or custodian; and**
 - (B) court appointed special advocate or guardian ad litem.**

Sec. 4. A child may not be removed from the child's family home when the child is alleged to be a child in need of services if the only



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1 evidence that exists to support the allegation after an initial
2 investigation is a report that is made anonymously.

3 SECTION 29. IC 31-34-19-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) ~~Any~~ **A**
5 predispositional report may be admitted into evidence to the extent that
6 the report contains evidence of probative value even if the report would
7 otherwise be excluded. **However, if a child's parent, guardian, or**
8 **custodian wishes to controvert any evidence in a predispositional**
9 **report, the parent, guardian, or custodian may request a**
10 **continuance of the dispositional hearing, and the court shall**
11 **schedule, within thirty (30) days after the request, a new**
12 **dispositional hearing that is subject to the rules of evidence,**
13 **including admission of the predispositional report.**

14 (b) If a report contains information that should not be released to the
15 child or the child's parent, guardian, or custodian, a factual summary of
16 the report may be admitted.

17 (c) The:

- 18 (1) child;
- 19 (2) child's parent, guardian, or custodian; and
- 20 (3) person representing the interests of the state;

21 shall be given a fair opportunity to controvert any part of the report
22 admitted into evidence.

23 SECTION 30. IC 31-34-20-3 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) If the juvenile
25 court determines that a parent, guardian, or custodian should
26 participate in a program of care, treatment, or rehabilitation for the
27 child, the court may order the parent, guardian, or custodian to do the
28 following:

- 29 (1) Obtain assistance in fulfilling the obligations as a parent,
30 guardian, or custodian.
- 31 (2) Provide specified care, treatment, or supervision for the child.
- 32 (3) Work with a person providing care, treatment, or rehabilitation
33 for the child.
- 34 (4) Participate in a program operated by or through the
35 department of correction.

36 (b) **The juvenile court shall consider a request to use a**
37 **particular service provider that is made by a child's parent,**
38 **guardian, or custodian who is required to participate in family**
39 **services under subsection (a)(1).**

40 SECTION 31. IC 31-34-22-2 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Except as
42 provided in subsection (b), a report prepared by the state:

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(1) for the juvenile court's review of the court's dispositional decree; or

(2) ~~prepared~~ for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;

shall be made available to the child and the child's parent, guardian, guardian ad litem, or custodian within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to the child or the child's parent, guardian, or custodian, the court shall provide a copy of the report to the following:

(1) Each attorney or guardian ad litem representing the child.

(2) Each attorney representing the child's parent, guardian, or custodian.

(3) Each court appointed special advocate.

(c) The court ~~may~~ **shall** also provide a factual summary of the report to the child or the child's parent, guardian, or custodian. **Alternative reports may be prepared by the child or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian for consideration by the court. The court shall advise the child's parent, guardian, or custodian:**

(1) that alternative reports may be prepared; and

(2) of the right to controvert a report as established in section 3 of this chapter.

(d) In addition to the requirements of subsection (a), ~~any~~ **a** report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.

SECTION 32. IC 31-34-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) ~~Any~~ **A** report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

(1) child;

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1 (2) child's parent, guardian, or custodian; and

2 (3) person representing the interests of the state;

3 shall be given a fair opportunity to controvert any part of the report
4 admitted into evidence. **However, if the child's parent, guardian, or**
5 **custodian wishes to controvert any evidence in a progress report**
6 **for placement review, the child's parent, guardian, or custodian**
7 **may request a continuance of the placement review hearing, and**
8 **the court shall schedule, within thirty (30) days after the request,**
9 **a new placement review hearing that is subject to the rules of**
10 **evidence, including admission of any report.**

11 SECTION 33. IC 31-37-6-6 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The juvenile
13 court shall release the child on the child's own recognizance or to the
14 child's parent, guardian, or custodian upon the person's written promise
15 to bring the child before the court at a time specified. However, the
16 court may order the child detained if the court finds ~~probable cause to~~
17 ~~believe~~ **by a preponderance of the evidence that** the child is a
18 delinquent child and that:

19 (1) the child is unlikely to appear for subsequent proceedings;

20 (2) detention is essential to protect the child or the community;

21 (3) the parent, guardian, or custodian:

22 (A) cannot be located; or

23 (B) is unable or unwilling to take custody of the child; or

24 (4) the child has a reasonable basis for requesting that the child
25 not be released.

26 (b) If a child is detained for a reason specified in subsection (a)(3)
27 or (a)(4), the child shall be detained under IC 31-37-7-1.

28 SECTION 34. IC 31-37-6-7 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Upon the juvenile
30 court's own motion or upon the motion of the person representing the
31 interests of the state, a child who has been released may be ordered to
32 appear for an additional detention hearing.

33 (b) **At the request of a child's parent, guardian, or custodian, an**
34 **additional detention hearing, subject to the rules of evidence, shall**
35 **be held within thirty (30) days after the request or the child shall**
36 **be released.**

37 (c) **When a judge releases a child under this section, the judge**
38 **shall make written findings that explain the reasons for the release.**

39 SECTION 35. IC 31-37-12-6 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The juvenile
41 court shall inform the parent or guardian of the estate of the following
42 if a child is adjudicated a delinquent child:



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(1) The parent, guardian, or custodian of the child may be required to participate in a program of care, treatment, or rehabilitation for the child.

(2) The parent or guardian may be held financially responsible for services provided for the child or the parent or guardian.

(3) The parent, guardian, or custodian of the child may controvert:

(A) an allegation made at the dispositional or other hearing concerning the participation of the parent, guardian, or custodian; or

(B) an allegation concerning the financial responsibility of the parent, guardian, or custodian for services that would be provided.

(b) The juvenile court shall consider a request to use a particular service provider that is made by a child's parent, guardian, or custodian who is required to participate in family services under subsection (a)(1).

SECTION 36. IC 31-37-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. A finding **by a juvenile court** in a proceeding to terminate parental rights must be based upon clear and convincing evidence.

SECTION 37. IC 31-37-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A finding **by a juvenile court in a proceeding that is not covered by described in** section 1 or 2 of this chapter must be based upon a preponderance of the evidence.

SECTION 38. IC 31-37-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer or a caseworker to prepare a predispositional report that contains a:

(1) statement of the needs of the child for care, treatment, rehabilitation, or placement; and

(2) recommendation for the care, treatment, rehabilitation, or placement of the child.

(b) Any of the following may prepare an alternative report for consideration by the court:

(1) The child.

(2) The child's:

(A) parent;

(B) guardian;

(C) guardian ad litem;

(D) court appointed special advocate; or



(E) custodian.

(c) The court shall advise the child's parent, guardian, or custodian:

(1) that an alternative report may be prepared; and

(2) of the right to controvert a predispositional report as set forth in IC 31-37-18-2.

SECTION 39. IC 31-37-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) ~~Any~~ A predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded. **However, if a child's parent, guardian, or custodian wishes to controvert any evidence in a predispositional report, the child's parent, guardian, or custodian may request a continuance of the dispositional hearing, and the court shall schedule, within thirty (30) days after the request, a new dispositional hearing that is subject to the rules of evidence, including admission of the predispositional report.**

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

(1) child;

(2) child's parent, guardian, or custodian; and

(3) person representing the interests of the state;

shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 40. IC 31-37-18.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 18.6. Additional Provisions Governing Out-of-Home Placements

Sec. 1. A child may not be removed from the child's family home when the child is alleged to be a delinquent child if, after an initial investigation, the only evidence supporting the allegation is a report that is made anonymously.

SECTION 41. IC 31-37-19-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. (a) If the juvenile court determines that a parent, guardian, or custodian should participate in a program of care, treatment, or rehabilitation for the child, the court may order the parent, guardian, or custodian to:

(1) obtain assistance in fulfilling the obligations as a parent, guardian, or custodian;



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- (2) provide specified care, treatment, or supervision for the child;
- (3) work with a person providing care, treatment, or rehabilitation for the child; and
- (4) participate in a program operated by or through the department of correction.

(b) The juvenile court shall consider a request to use a particular service provider that is made by a child's parent, guardian, or custodian who is required to participate in family services under subsection (a)(1).

SECTION 42. IC 31-37-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Except as provided by subsection (b), a report prepared by the state:

- (1) for the juvenile court's review of the court's dispositional decree; or
- (2) for use at a periodic case review or hearing under IC 31-37-20-2 or IC 31-37-20-3;

shall be made available to the child and the child's parent, guardian, guardian ad litem, custodian, or court appointed special advocate within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to the child or the child's parent, guardian, or custodian, the court shall provide a copy of the report to the following:

- (1) Each attorney or a guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) A court appointed special advocate.

(c) The court ~~may~~ **shall** also provide a factual summary of the report to the child or the child's parent, guardian, or custodian. **Alternative reports may be prepared by the child or the child's parent, guardian, custodian, guardian ad litem, or court appointed special advocate for consideration by the court. The court shall advise the child's parent, guardian, or custodian:**

- (1) that alternative reports may be prepared; and**
- (2) of the right to controvert a report as established in section 3 of this chapter.**

(d) In addition to the requirements of subsection (a), ~~any~~ **a** report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines

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on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.

SECTION 43. IC 31-37-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) ~~Any~~ **A** report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

(1) child;

(2) child's parent, guardian, or custodian; and

(3) person representing the interests of the state;

shall be given a fair opportunity to controvert any part of the report admitted into evidence. **However, if the child's parent, guardian, or custodian wishes to controvert any evidence in a progress report for placement review, the child's parent, guardian, or custodian may request a continuance of the placement review hearing, and the court shall schedule, within thirty (30) days after the request, a new placement review hearing that is subject to the rules of evidence, including admission of any report.**

SECTION 44. IC 31-40-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The county shall pay the cost of:

(1) any services ordered by the juvenile court for any child or the child's parent, guardian, or custodian; and

(2) returning a child under IC 31-37-23.

A parent or other family member is not required to reimburse the state or a provider of family services for supervised visitation.

(b) The county fiscal body shall provide sufficient money to meet the court's requirements.

(c) The child's parent or the guardian of the estate of a child shall reimburse the county for the costs paid under subsection (a) (or IC 31-6-4-18(b) before its repeal) as provided under this article.

(d) After receiving a petition for reimbursement from a county that has paid for services under subsection (a) (or IC 31-6-4-18(b) before its repeal), the court shall hold a hearing to determine whether to order reimbursement by the child's parents or the guardian of the child's estate to the county as described under this article.

SECTION 45. IC 31-34-12-4 IS REPEALED [EFFECTIVE JULY



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